

Application No. 08/883,075

has now established that the '085 disclosure was not made prior to the invention of claim 84 by applicants.

In that regard, a declaration under Rule 131 is submitted herewith. This declaration clearly and unequivocally establishes that at a date prior to the publication date of the '085 patent (namely, December 19, 1996), the present inventors invented and actually reduced to practice the subject matter of claim 84. The declaration clearly establishes, with corroboration, that the claimed transdermal delivery system for selegiline was actually reduced to practice. This reduction to practice included a transdermal patch having a non-aqueous solvent in connection with an acrylic adhesive polymer system and employing only solvents which were highly volatile, such as ethanol, which were removed during drying, but which excluded solvents that remained after drying, such as propylene glycol and the like. The reduction to practice thus employed the low molecular weight drug selegiline, which is a liquid at or about room temperature, along with a polymer system in which the entire system was substantially free of water, as well as being free of liquids which had a normal boiling point below processing temperatures for the patch, and equal to or greater than the normal boiling point of the selegiline itself.

Beginning at paragraph 9 of the enclosed Declaration, the specific steps in the reduction to practice of such selegiline patches are set forth in detail, and it is established beyond doubt that, prior to December 19, 1996, the inventors hereof reduced to practice a transdermal patch falling directly within the scope of claim 84.

It is therefore respectfully requested that the sole rejection in this case over the '085 patent under § 102(b) be withdrawn. The Examiner should then be in a position to either declare an interference, if there is a pending application in the

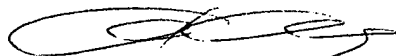
Application No. 08/883,075

United States Patent and Trademark Office corresponding to this subject matter, or to issue this patent. If, however, for any reason the Examiner still does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Respectfully submitted,

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